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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/872,306	06/01/2001	Charles D. Carr	3-10-3	2372

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Docket Administrator  
Agere Systems Inc.  
P.O. Box 614  
Berkeley Heights, NJ 07922-0614

EXAMINER

PRITCHETT, JOSHUA L

ART UNIT	PAPER NUMBER
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2872

DATE MAILED: 11/06/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/872,306

Applicant(s)

CARR ET AL.

Examiner

Joshua L Pritchett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 11. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 4. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claims 3, 11 and 12 are objected to because of the following informalities:

Regarding claim 3 is objected to for being ambiguous. The phrase “according to claim 2 wherein 1 wherein” is ambiguous because the examiner cannot determine whether claim 3 depends on claim 1 or claim 2 or both.

Regarding claims 11 and 12 are objected to as being ambiguous. The recitation of "a member" or "a mirror" is ambiguous because the examiner cannot readily determine whether the applicant is claiming a new mirror or a mirror as part of the array previously claimed.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 11, 13, 14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Degani (US 6,433,411) in view of Higuchi (JP 09261975).

Regarding claims 1 and 13, Degani teaches an array (col. 3 lines 15-16) of electrostatically activated members (col. 3 lines 7-8) formed on a layer comprising silicon (col. 3 line 30; Fig. 2 (32)). Degani further teaches a substrate comprising a ceramic material (col. 5 lines 15-16; Fig. 3 (52)). Degani further teaches contact pins passing through holes in the ceramic substrate (col. 5 lines 20-23; Fig. 3 (56)). It is not completely clear whether these contact pins serve as conductors; therefore the examiner will assume the pins are not conductors. Degani lacks conductors in via holes formed in the substrate to operate the array of members. Degani further lacks conductors formed on a major surface of the substrate. Higuchi teaches the use of via holes (3) through a substrate (1) to selectively operate an array of members. Higuchi

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teaches that the substrate with through holes acts as an electrostatic actuator (translation page 1). Higuchi further teaches conductors (B, Fig. 7) formed on the major surface of the substrate (1, Fig. 7). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use the through hole electrostatic actuator and the conductors on the major surface of the substrate taught by Higuchi in the Degani invention for the purpose of creating a more electrically isolated environment around the micromirrors therefore allowing the tilting to be more precise.

Regarding claims 2 and 14, Degani teaches a device where the members are rotatable mirrors (col. 2 line 66; Fig. 1 (11a-i)).

Regarding claims 4 and 17, Degani teaches the array element separated from the substrate by a spacer layer (col. 5 lines 29-32). Degani teaches the member floats on the interconnect substrate therefore the spacer layer between the substrate and the member is air.

Regarding claim 6, Degani teaches the mirrors are adapted to rotate about at least two axes (col. 3 lines 5-6; Fig. 1 (15-18)).

Regarding claim 11, Degani teaches the conductors positioned to operate a member comprise an array of at least four conductors (col. 3 lines 11-12; Fig. 1 (15-18)). Degani lacks specific reference to the conductors in via holes. Higuchi teaches the use of conductors in via holes (translation page 1). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to place the conductors of Degani in via holes as taught by Higuchi for the purpose of achieving greater electrical isolation of the members.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Degani in view of Higuchi as applied to claim 2 above, and further in view of Lin "Free-Space Micromachined Optical Switches for Optical Networking".

Degani suggest the possibility of creating larger arrays than the 3x3 array disclosed, but does not explicitly disclose larger arrays (col. 3 lines 11-12). Degani in combination with Higuchi teaches the invention as claimed but lack the claimed dimension of the array. Lin teaches that the array can be extended to include an array of at least 8x10 (page 8 col. 2). Lin discloses arrays of various sizes that exceed 8x10. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use an array of at least 8x10 as taught by Lin in combination with the invention of Degani and Higuchi for the purpose of storing more data on a single chip.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Degani in view of Higuchi as applied to claim 1 above, and further in view of Engleberth (US 6,393,187).

Degani in combination with Higuchi teaches the invention as claimed but lack reference to a metal layer dispersed on the silicon layer. Engleberth teaches an optical array device comprising a layer of metal on a major surface of a silicon layer (col. 3 lines 23-26). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to deposit a metal layer as taught by Engleberth on the silicon layer of Degani and Higuchi for the purpose of filling exposed cavities in the silicon layer.

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Claims 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Degani in view of Higuchi as applied to claim 1 above, and further in view of Imanaka "Thin Film Metallization for Aluminum Nitride".

Regarding claim 7, Degani teaches the metallization of aluminum to provide electrical interconnection between the substrate and MEMS device (col. 3 lines 59-64). Degani and Higuchi lack reference to the use of aluminum nitride as the ceramic used as the substrate. Imanaka teaches the use of aluminum nitride substrates in microelectronics (page 1 para. 3). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use aluminum nitride as the ceramic substrate in the Degani invention for the purpose of creating a device that can operate at high temperatures.

Regarding claim 9, Degani in combination with Higuchi teaches the invention as claimed but lack reference to the roughness of the substrate. Imanaka teaches the roughness of the substrate to be less than one micron (page 1 para. 3). Imanaka discloses a roughness of less than 0.3 microns. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to create the Degani substrate with the roughness taught by Imanaka for the purpose of creating a precise signal from the MEMS device.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Degani in view of Higuchi as applied to claim 1 above, and further in view of Lin.

Degani in combination with Higuchi teaches the invention as claimed but lack reference to a substrate flatness of less than 10 microns. Lin teaches a substrate flatness of less than 10 microns (page 5 col. 2). Lin discloses a flatness of 5000 Angstroms, which is equivalent to 0.5

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microns. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have the substrate flatness of Lin on the Degani and Higuchi device for the purpose of producing precise signal.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Degani in view of Higuchi as applied to claim 1 above, and further in view of Fjelstad (US 6,329,607) and Farrar (US 6,284,656).

Degani in combination with Higuchi teaches the invention as claimed but lack reference to the size and spacing of the conductors. Fjelstad teaches a conductor of less than 2 microns in width (col. 5 lines 3-4). Fjelstad discloses a conductor having a line width of least than 10 microns. Farrar teaches conductors having spacing of less than 2 microns (col. 5 lines 46-48). Farrar discloses submicron spacing of conductors. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use the conductor size of Fjelstad and the conductor spacing of Farrar in the invention of Degani and Higuchi for the purpose of creating a smaller chip capable of performing the same tasks as a larger chip.



Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Degani in view of Higuchi and Lin and Imanaka.

Degani teaches an array of mirrors (col. 2 line 66) rotatable about at least two axes (col. 3 lines 5-6) formed in a layer comprising silicon (col. 3 line 29). Degani further teaches the array element separated from the substrate by a spacer layer (col. 5 lines 29-32). Degani discloses the member floats on the interconnect substrate therefore the spacer layer between the substrate and the member is air. Degani teaches a substrate comprising a ceramic material (col. 5 lines 15-16; Fig. 3 (52)). Degani further teaches conductors positioned to operate a mirror comprise an array of at least four conductors (col. 3 lines 11-12; Fig. 1 (15-18)). Degani lacks reference to the claimed size of the array. Degani further lacks reference to the use of aluminum nitride as the ceramic material used in the substrate. Degani further lacks reference to the flatness and roughness of the substrate. Degani further lacks specific reference to conductors in via holes. Lin teaches that the array can be extended to include an array of at least 8x10 (page 8 col. 2). Lin discloses arrays of various sizes that exceed 8x10. Lin teaches a substrate flatness of less than 10 microns (page 5 col. 2). Lin discloses a flatness of 5000 Angstroms, which is equivalent to 0.5 microns. Imanaka teaches the roughness of the substrate to be less than one micron (page 1 para. 3). Imanaka discloses a roughness of less than 0.3 microns. Imanaka teaches the use of aluminum nitride substrates in microelectronics (page 1 para. 3). Higuchi teaches the use of via holes (3) through a substrate (1) to selectively operate an array of members. Higuchi teaches that the substrate with through holes acts as an electrostatic actuator (translation page 1). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to equip the Degani substrate with the ceramic material taught by Imanaka and to have the substrate

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have the roughness and flatness taught by Imanaka and Lin respectively for the purpose of creating a microelectronic device that can withstand high temperatures and have precise signaling. It would also have been obvious to increase the size of Degani to an array of at least 8x10 as taught by Lin for the purpose of processing more information on a single chip. It would further have been obvious to a person of ordinary skill in the art at the time the invention was made to equip the Degani substrate with via holes and to place the conductors in the via holes for the purpose of achieve electrical isolation of the members.

Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Degani in view of Higuchi as applied to claim 13 above, and further in view of Aksyuk (US 5,995,688).

Degani in combination with Higuchi teaches the invention as claimed but lacks reference to the bonding method of the silicon layer. Aksyuk teaches the silicon layer mounted through either an epoxy or solder bond (col. 7 lines 34-35). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use the bonding techniques of Aksyuk in the invention of Degani and Higuchi for the purpose of creating a strong and durable bond on the silicon layer.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Foresi (US 6,108,464) teaches integrated circuits with optoelectronic components.

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Hurst (US 6,360,035) teaches electrostatically activated mirrors.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua L Pritchett whose telephone number is 703-305-7919.

The examiner can normally be reached on Monday - Friday 7:00 - 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cassandra Spyrou can be reached on 703-308-1687. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9318 for regular communications and 703-872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

JLP

November 4, 2002



**Cassandra Spyrou**  
**Supervisory Patent Examiner**  
**Technology Center 2800**